Ohio Legislative Service Commission

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Office of Research and Drafting

Legislative Budget Office

H.B. 6
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133rd General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 6's Bill Analysis

Version: In Senate Energy & Public Utilities

Primary Sponsors: Reps. Callender and Wilkin

Local Impact Statement Procedure Required: No

Russ Keller, Senior Economist and other LBO staff

Highlights

Fund	FY 2020	FY 2021	Future Years
Energy Generation Fund (custodial fund)			
Revenues	Gain of $80 million	Gain up to $160 million	Gain up to $160 million
Expenditures	Commensurate with revenues	Commensurate with revenues	Commensurate with revenues

Note: The state or school district fiscal year runs from July 1 through June 30 and is designated by the calendar year in which it ends. For other local governments, the fiscal year is identical to the calendar year.

- The bill creates a new Energy Generation Fund, which will compensate electric generating facilities fueled by nuclear energy and new facilities fueled by renewable power. Beginning January 1, 2020, electric consumers will fund this program through a dedicated monthly charge authorized through 2026.
- Several bill provisions may affect the state and political subdivisions as purchasers of electricity. The bill lowers the annual renewable resource requirements for electric companies beginning in calendar year (CY) 2020 and repeals the existing alternative energy portfolio standard for CY 2026 and years thereafter.
- Beginning in CY 2021, the bill modifies the annual energy efficiency savings benchmarks and prohibits utilities from collecting shared savings incentives from ratepayers on behalf of these energy efficiency programs.
- The bill authorizes a nonbypassable, statewide charge paid by retail electric customers for the utilities' ownership stakes in the Ohio Valley Electric Corporation. The new

charge will succeed existing riders with the same purpose, and continue through CY 2030. The amounts of the charge (or credit) would vary based on wholesale electric prices, but the bill limits the residential charge to $1.50 per month.

- The Ohio Air Quality Development Authority (OAQDA) will incur new costs for hiring staff to oversee the Energy Generation Fund and the energy credits to be paid under the bill. The bill does, however, allow OAQDA and the Public Utilities Commission of Ohio (PUCO) to share staff resources and expertise to carry out the requirements of the bill. The bill provides no additional appropriations under the OAQDA budget to pay for these new costs.
- In each year beginning in 2021 and ending in 2026, the bill requires PUCO to audit any owner or operator of a nuclear resource that receives payments from the Energy Generation Fund. If OAQDA determines there is a reduced need for payments after reviewing the audit, then PUCO must revise the charges to correspond with the newly determined funding amount. If private consultants are hired to conduct or assist in the audits, they may be paid from the Energy Generation Fund.

Detailed Analysis

Overview

H.B. 6 creates the Energy Generation Fund, a custodial fund to be administered by the Ohio Air Quality Development Authority (OAQDA). The owner or operator of electric generating facilities in Ohio fueled by nuclear power that meet the criteria of "qualifying nuclear resource" may apply to OAQDA. The bill awards a "nuclear resource credit" worth up to $9.00 for each megawatt hour (MWh) of electricity a nuclear resource produces. Separately, OAQDA will award "a supplemental renewable energy credit payment," worth up to $3.00 per MWh to the owner or operator of a "qualifying renewable resource," which are generally new resources located in Ohio. The bill explicitly prohibits an electric distribution utility (EDU) from receiving a supplemental renewable resource payment. All payments from the fund continue to qualifying owners or operators until their facilities no longer meet the criteria specified in the bill or when the payment program terminates shortly after December 31, 2026.

The bill authorizes a new, nonbypassable charge on electric consumers of an EDU while simultaneously reducing electric companies' compliance costs with both (1) the alternative energy portfolio standard (AEPS) required by section 4928.64 of the Revised Code and the energy efficiency and peak demand reduction (EE/PDR) benchmarks required by section 4928.66 of the Revised Code. The bill also extends through December 31, 2030, the existing charges paid by retail electric customers for the net impact of utilities' ownership stake in the Ohio Valley Electric Corporation (OVEC). When the existing OVEC riders expire, PUCO may establish a statewide nonbypassable charge to recover their OVEC-related contractual commitments from ratepayers.

Please refer to the LSC Bill Analysis and the Substitute Bill Comparative Synopsis for a full description of the contents of H.B. 6. Following this section is a brief description and summary analysis of the bill's various fiscal effects, focusing on (1) the Energy Generation Fund created by the bill, (2) payments to entities from the Energy Generation Fund, (3) other provisions that affect utilities and energy usage in Ohio, and (4) background information – current operations of OAQDA.

Energy Generation Fund (custodial fund)

The bill creates the Energy Generation Fund for the purpose of funding the energy credits under the bill. The fund would be in the custody of the state treasurer rather than be part of the state treasury; one implication of that is that expenditures from the fund would not require appropriations by the General Assembly.

Revenues to the fund consist of fixed monthly charges paid by customers of electric utilities. The monthly charge varies depending on the customer type, as provided in Section 3706.49 of the bill. The monthly charges begin January 1, 2020 and end on December 31, 2026. The bill provides some discretion to PUCO for establishing the structure and design of this monthly charge so that the average monthly amounts paid by customers equal those specified in Table 1.

Table 1. Estimated Annual Revenue Raised from Fixed Monthly Charge in H.B. 6

Customer Type	Monthly Charge	Customer Bills (per year)	Annual Revenue
Residential	$0.80	50,790,393	$40,632,314
Commercial	$11	6,342,449	$69,766,939
Industrial	$240	189,217	$45,412,080
Large customers*	$2,400	1,764	$4,233,600
Total	**N/A**	**57,323,823**	**$160,044,933**

*The $2,400 monthly charge applies to those commercial or industrial customers that exceeded 45 million kilowatt hours of electricity at a single location in the preceding year, as specified in Section 3706.49(B)(4). The threshold is identical to the delineation used by Ohio's kilowatt-hour tax for self-assessing purchasers. LBO relied upon North American Industry Classification System (NAICS) codes provided by applicable taxpayers to identify whether these large customers would be classified as commercial or industrial customers. PUCO customer counts were modified accordingly.

Disbursements from the Energy Generation Fund are limited to a percentage of monthly fund revenues, as established by the bill. Generating facilities fueled by either nuclear or renewable energy may qualify for disbursements from the fund. The value of the credit differs for nuclear and renewable resources (see details below), but the quantity of credits awarded to all recipients is dependent on the MWh of electricity generated during the previous month.

Owners or operators of a qualifying nuclear energy resource may earn a "nuclear resource credit" equal to $9.00 per MWh, but the monthly disbursements to these owners are limited to 93.75% of amounts deposited in the Energy Generation Fund. Table 2 displays recent electric generation statistics for the two Ohio-based nuclear power plants. If the trends observed in the past three years continue in coming years, the owners of the two plants would likely collect less than $9.00 per MWh, as the 93.75% cap in the bill would limit their annual payments to no more than $150 million.

Table 2. Net Generation, in Megawatt Hours, for Ohio's Nuclear Power Plants		
Calendar Year	Perry	Davis-Besse
2018	10,934,736	7,380,271
2017	9,812,376	7,875,413
2016	10,423,250	6,394,136

Source: U.S. Energy Information Administration (EIA), Form EIA-923; https://www.eia.gov/electricity/data/eia923/

Owners or operators of certified qualifying renewable energy resources may earn a "supplemental renewable energy credit payment" equal to $3.00 per MWh, but the monthly disbursements to these owners are limited to 6.25% of amounts deposited in the Energy Generation Fund. Section 3706.40 of the bill limits these payments to renewable resources "constructed on or after the effective date" of H.B. 6. In the event that future MWh generation from qualifying renewable resources exceeds the funding limit imposed by the 6.25% cap, it would necessitate that OAQDA decline applications of some facility owners.

Fiscal effect on the state and political subdivisions as ratepayers

The fiscal effect on government expenditures is minimal. State agencies and local governments purchase electricity from a variety of providers, and those outside the service area of an electric distribution utility will not be affected. Refer to the map at the end of this fiscal note for a detailed illustration of EDU boundaries.

The substantial majority of, if not all, government entities within EDU territories will likely be classified as commercial customers under H.B. 6 (though under the bill, each EDU determines the classification of its customers). The bill imposes a charge up to $11 per month on these customers, which is equivalent to $132 per year. In conjunction with this new charge, H.B. 6 potentially lowers costs associated with EE/PDR requirements as early as 2021 by preventing EDUs from recovering certain EE/PDR costs from ratepayers while simultaneously reconfiguring the energy savings requirements. Moreover, the bill reduces future AEPS compliance charges by reducing the annual benchmarks in section 4928.64 of the Revised Code and reducing the associated baseline against which compliance is measured.

Payments to entities from the Energy Generation Fund

OAQDA's role as administrator of the fund

While the Treasurer of State is the custodian of the fund, OAQDA is charged with directing the Treasurer to use the Energy Generation Fund. The Authority is to consult with PUCO to certify qualifying nuclear resources and renewable energy resources that qualify for a monthly payment from the fund, and then to direct the Treasurer of State to pay the owners or operators who generated those resources. Various provisions under the bill require OAQDA to coordinate with PUCO to set policies and rules to regulate payments from the fund and oversee other uses of the fund. The bill requires OAQDA to adopt rules to govern applications to certify qualifying resources, and also to track the megawatt information reported for resources.

To qualify for credits, the bill defines a qualifying nuclear resource as an electric generating facility that is located in Ohio and fueled by nuclear power. Alternatively, a qualifying renewable energy resource must satisfy a series of requirements; it must be: (1) located in Ohio, (2) constructed after the effective date of R.C. 3706.40, and (3) a renewable energy resource as defined by the renewable energy portfolio standards under section 4928.64 of the Revised Code.

OAQDA will incur significant new costs for implementing and overseeing the funding procedure established by the bill, including likely hiring new staff. The Authority currently employs four full-time staff. Although it is difficult to assess staffing needs under the bill at this stage, OAQDA will probably be required to hire a handful of additional employees to run the new initiative. This would potentially include a program manager, engineers, and technical experts. An attorney conversant with utility and energy law and a public information officer may also be necessary. There are also likely to be some costs at the outset for hiring technical consultants to study and develop fund usage guidelines. In addition, more office space and new supplies and equipment would likely be needed to house the program. OAQDA currently rents office space in the LeVeque Tower at 50 West Broad Street in Columbus. The bill does not include funding to cover these additional personnel or office expenses. A description of OAQDA's current duties and funding is included at the end of this fiscal note.

Some of these potential expenses could, however, be offset by a provision of the bill that allows OAQDA to make use of PUCO staff and experts per mutual arrangement between the Authority and the Commission. This provision specifies that any PUCO information, data, and equipment must be placed at the disposal of OAQDA. Overall, this may mitigate some of these additional costs that OAQDA would otherwise incur for overseeing the funding procedure.

PUCO audits of nuclear resources

The bill requires PUCO to conduct an annual management and financial audit of any owner or operator of a qualifying nuclear resource that receives payments from the Energy Generation Fund, in order to evaluate how the payments were used, and the extent to which those payments were needed to maintain operation of the resource. To conduct these audits, the bill allows PUCO to retain consultants and advisors to perform all or any of the annual audits.

The cost of consultants hired to conduct or assist in these audits may be paid from the Energy Generation Fund. OAQDA is to direct the Treasurer of State to pay PUCO for these purposes. It is difficult to estimate the annual payments to PUCO for this purpose, which may range from the hundreds of thousands of dollars to more than a million, depending on the extent of audits and the contractors selected. There are no appropriations included in the bill to PUCO for their remaining costs of conducting audits.

Upon completion of an audit, PUCO is required to submit a report summarizing the findings to OAQDA and members of the Ohio General Assembly. OAQDA will then consult with PUCO to consider the findings, and take the following actions as a result: (1) review the eligibility of the nuclear resource under the bill and allow for its ongoing certification for an additional year, (2) decertify the nuclear resource (and thereby end payments from the fund to support the resource), and (3) determine that less revenue is needed to support the resource in the Energy Generation Fund, and recommend that PUCO develop new ratepayer charges, structures, and designs. Given the authority provided to OAQDA in reviewing annual audits and to govern the use of the Energy Generation Fund, the audits could result in continued payments from the fund at the initial levels, or reduced ratepayer charges and payments from the Fund between 2022 and 2026.

Other provisions affecting utilities and energy usage

Energy efficiency and peak demand reduction charges

Generally, the current EE/PDR plans are for three years from 2017-2019, but H.B. 6 extends the current plans of applicable EDUs for a fourth year. As of this writing, at least two EDUs, AEP Ohio and Dayton Power and Light, have portfolio plans due to expire by the end of 2020, while the remaining EDUs expire at the end of 2019. For plans extended a fourth year, their approved budget must be an amount equal to the annual average of the approved budget for the current portfolio plan in effect.

Table 3. Energy Efficiency Baselines, Banked Energy Savings, and Estimated Annual Benchmarks (all figures in MWh)

EDU	Baseline for 2019 Compliance	Banked Energy Efficiency Savings as of December 31, 2018	Estimated Annual Benchmarks, for 2021 to 2029, under H.B. 6
AEP Ohio	37,746,600	2,380,536	322,665
Dayton Power and Light	12,740,800	1,255,300	58,712
Duke Energy	19,755,400	2,802,688	0
FirstEnergy	45,575,700	2,852,427	392,019
Total	**115,818,500**	**9,290,951**	**773,396**

Source: Baselines and banked energy savings amounts reported by Sam Randazzo to Senate Energy and Public Utilities Committee.

Note: Duke Energy's banked energy efficiency savings are sufficient for it to comply with the bill's requirements for 2021 to 2029. For other utilities, the bill sets future annual benchmarks equivalent to less than 1% of a given utility's 2019 baseline.

Beginning with compliance in CY 2021, the bill revises the energy efficiency benchmarks in R.C. 4928.66. The annual marginal savings requirements applicable to those future years are replaced with a target that uses an EDU's 2021 compliance baseline as the starting point[1] and multiplies this baseline by 14%. The product is then reduced by an amount equal to banked energy savings recorded by an EDU as of December 31, 2018. If the net amount is greater than zero, the outstanding balance of megawatt hours will be spread over a nine-year period in equal installments. Table 3 estimates the annual benchmarks for each EDU using the 2019 baseline as a proxy for the 2021 baseline. Duke Energy's estimated annual benchmark for 2021

[1] Under continuing law, this would be a three-year average (2018-2020) or retail electric sales, as adjusted for customer opt-outs, reasonable arrangements, and weather normalizations.

to 2029 is zero because that EDU's banked energy efficiency savings exceed 14% of its estimated 2021 baseline. The bill permits an EDU to exceed the annual benchmark between 2021 and 2029, but shared savings will not be awarded for this achievement. Once the utility demonstrates that its cumulative energy savings are 22% of its baseline, it is not required to meet the annual savings benchmark for a given year.

Beginning in 2021, H.B. 6 prohibits a utility from receiving shared savings or similar incentives for energy efficiency programs. The bill further requires that costs recovered from ratepayers under these energy efficiency programs must be "reasonably and prudently incurred." Under current law, shared savings represent a portion of EE/PDR program costs recovered from ratepayers. Shared savings are awarded to EDUs when they exceed the annual energy savings target. These performance incentives are capped by PUCO and subject to change in future years. The current shared savings caps for each EDU are specified in Table 4.

Table 4. Energy Efficiency and Peak Demand Reduction Compliance Costs for 2019

Category	PUCO's Cost Cap for 2019 Compliance	Maximum Portion for Shared Savings for 2019
AEP Ohio	$110,319,902	$25,316,456
Dayton Power and Light	$33,022,141	$5,696,203
Duke Energy	$38,652,074	$10,126,582
FirstEnergy	$106,799,402	$31,645,570
Total	**$288,793,519**	**$72,784,811**

Note: PUCO's cost cap equals 4% of 2015 operating revenues. Shared savings limits were previously approved by PUCO on an after-tax basis, so Table 4 adjusts them for 21% federal corporate tax rate. FirstEnergy's cap recently increased from $10 million to $25 million (after-tax basis) because it will no longer collect revenue from its Distribution Modernization Rider after a recent Ohio Supreme Court decision.

LBO does not have an estimate for the magnitude of the bill's changes to the energy efficiency law. None of the EDUs have provided public information about their compliance costs for the upcoming 2% annual energy savings requirement applicable under current law from 2021 to 2027. Presumably, banked energy savings would have a substantial role in future compliance, but it is unclear how the bill affects this potential strategy. One possible outcome is that H.B. 6 reduces compliance costs in the near term by extending the savings requirements over a longer duration.

Any such estimate for baseline law or the impact of H.B. 6 would be complicated by a case currently pending before the Ohio Supreme Court.[2] Presently, the court must decide whether PUCO can lawfully implement a cost cap on an EDU's EE/PDR portfolio plans equal to 4% of their 2015 electric operating revenues (refer to Table 4). Potentially, the EDUs could recover costs in excess of the PUCO-ordered cap under current law, regardless of any potential

[2] Case No. 2018-0379.

Supreme Court decision. Given the uncertainty, LBO cannot reliably estimate the costs related to this provision.

Alternative energy charges

The bill reduces annual AEPS requirements beginning in 2020 and eliminates the AEPS in its entirety for 2026 and years thereafter. The AEPS standards in current law require EDUs and competitive retail electric service (CRES) providers to rely upon renewable energy sources for a specified percentage of electricity supplied to their respective customers.

The bill also reduces the compliance baseline for EDUs and CRES providers "to exclude the load and usage of those self-assessing purchasers." Recent statistics suggest this provision excludes 23.7 million MWh from the statewide baseline of 115.4 million MWh, which is a reduction of nearly 21%.

By reducing the annual renewable portfolio standards and the compliance baseline for 2020 to 2025, the bill reduces (and eventually eliminates in 2026) future charges incurred by utilities to comply with this energy sourcing standard. Table 5 displays the compliance costs in recent years, as reported by the PUCO Chairperson, Sam Randazzo. In general, the compliance costs have declined since the enactment of S.B. 310 of the 130th General Assembly, which made numerous changes to the AEPS.

Table 5. Compliance Costs for Renewable Energy Standard Reported to PUCO, 2014 to 2017

Compliance Year	Renewable Resource Requirement	Solar Resource Requirement ("Carve out")	Compliance Costs
2014	2.5%	0.12%	$72,665,749
2015	2.5%	0.12%	$47,124,761
2016	2.5%	0.12%	$44,911,448
2017	3.5%	0.15%	$40,659,880

Source: Reported by Sam Randazzo to Senate Energy and Public Utilities Committee on June 5, 2019.

The AEPS rider is bypassable, which means it is paid only by Standard Service Offer (SSO) customers. Other consumers that alternatively purchase their generation supply from a CRES provider do not pay the rider. Nevertheless, CRES providers are subject to the renewable portfolio standard, so they incur charges to comply with the law. Consequently, their customers likely pay some portion of these compliance costs, albeit indirectly. CRES providers differ from EDUs in that they do not seek approval of PUCO to recover costs through a rider on customers' electric bills. H.B. 6 exempts self-assessing purchasers from both the bypassable AEPS rider levied by EDUs and the AEPS-related compliance costs incurred by CRES providers.

Ohio Valley Electric Corporation charges

The bill extends the date by which EDUs may recover the "contractual commitments related to a legacy generation resource." The term refers to the EDUs' ownership stakes in two coal plants operated by the Ohio Valley Electric Corporation (OVEC). With the exception of the three FirstEnergy EDUs,[3] all other EDUs currently recover some portion of their OVEC ownership costs through an existing rider authorized by PUCO. The term for each rider aligns with an EDU's Electric Security Plan (refer to Table 6).

Table 6. OVEC Electric Bill Riders Currently Approved by PUCO

EDU	Name	Expiration
Dayton Power and Light Co.	Reconciliation Rider	October 31, 2023
AEP Ohio	Power Purchase Agreement Rider	May 31, 2024
Duke Energy	Price Stabilization Rider	May 31, 2024

H.B. 6 extends this cost recovery past their current expiration dates through December 31, 2030, although some deferred costs may still be recovered from ratepayers after that date. Once the OVEC charges are extended, the bill requires PUCO to establish a nonbypassable rate mechanism to recover an EDU's "legacy generation costs" from customers of all EDUs in this state. The prospective statewide rider is capped at $1.50 per month for residential customers and $1,500 per month for nonresidential customers.

The OVEC-related "contractual commitments" rider works as either a charge or a credit to an EDU's retail customers, depending on how OVEC's costs compare to the market rate. PJM Interconnection, L.L.C. ("PJM") operates a competitive wholesale electricity market where rates are set. If the revenue generated from sales to the PJM market is lower than the costs of the power, customers would pay a surcharge to their EDU to make up the difference. But if the PJM market rates are higher than the power costs, customers would receive a credit on their monthly bills due to this rider.

A succinct summary of OVEC's business structure can be found in its most recent annual report filed with the Federal Energy Regulatory Commission (FERC):

> OVEC is owned by several investor-owned utilities or utility holding companies and two affiliates of generation and transmission rural electric cooperatives. These entities or their affiliates comprise the Sponsoring Companies. The Sponsoring Companies purchase power from OVEC according to the terms of the Inter-Company Power Agreement (ICPA), which has a current termination date of June 30, 2040. The proceeds from the sale of power to the Sponsoring Companies are designed to be sufficient for OVEC to meet its operating expenses and fixed costs, as well as earn a return on equity before federal income taxes. In addition, the proceeds from power sales are designed to cover

[3] Unlike other Ohio EDUs, the three FirstEnergy EDUs do not have direct ownership stakes as one of OVEC's sponsoring companies.

debt amortization and interest expense associated with financings.

According to 2018 information reported by OVEC to FERC, the Ohio EDUs purchased a combined total of 4.1 million MWh at a cost of $220.6 million, or $53.44 per MWh. PJM reported the average price paid for power in OVEC's region was $30.61 per MWh,[4] so the Ohio EDU's could have resold their OVEC power purchases in 2018 for a loss up to $22.83 per MWh, or $94.3 million.

Table 7. OVEC Sales, in Megawatt Hours, to Ohio EDUs in 2018

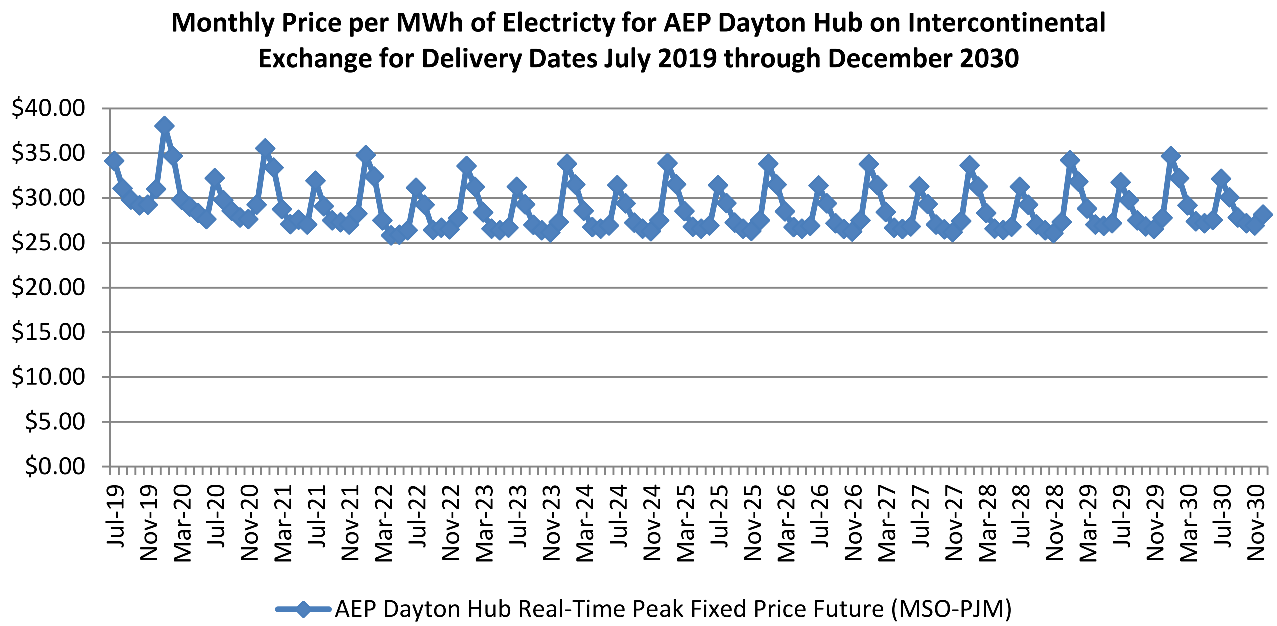
Name of Company	MWh Purchased
The Cincinnati Gas & Electric Company, "Duke Energy"	1,098,493
Columbus Southern Power Company, "AEP Ohio"	541,649
The Dayton Power and Light Company	597,927
Ohio Power Company, "AEP Ohio"	1,890,561
Total	**4,128,630**

Source: OVEC, Financial Report FERC Form No. 1, Reported Sales For Resale (Account 447)

EDUs' future losses from OVEC would depend on their revenues from reselling OVEC's output as well as their share of OVEC's debt service. The revenues associated with future energy prices for various sub-regions ("nodes") of PJM are inherently difficult to predict. According to a Duke Energy filing with PUCO, nodal prices for OVEC historically averaged 5.5% lower than the all-hours prices for the AEP Dayton Hub.[5] The more prominent AEP Dayton Hub is adjacent to the OVEC location, and futures contracts for this hub are traded on the Intercontinental Exchange (ICE). Duke Energy's filing observed that power prices for the AEP Dayton Hub since 2009 ranged from a low of $27.80 per MWh in 2016 to a high of $44.10 per MWh in 2014. The ICE futures market for electricity delivered between 2019 and 2030 (refer to chart below) suggests prices for the AEP Dayton Hub will remain within the lower half of this historical range.

[4] PJM 2018 State of the Market Report, Table 3-75 Zonal real-time and real-time, load-weighted, average LMP (Dollars per MWh): 2017 and 2018, https://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2018.shtml.

[5] PUCO Case No. 17-0032-EL-AIR, *Revised Public Supplemental Testimony of Judah L. Rose on behalf of Duke Energy Ohio*, July 10, 2018.



Source: July 2, 2019 report date, https://www.theice.com/marketdata/reports/142

OVEC anticipates a variable pattern in its expected debt service over the next five years. According to its most recent Statement of Income filed with FERC, the company paid $75.5 million in interest on its long-term debt in 2018. OVEC also estimated its annual maturities of long-term debt as of December 31, 2018 (refer to Table 8).

Table 8. OVEC Annual Maturities of Long-Term Debt as of December 31, 2018

Year	Amount
2019	$179,670,116
2020	$141,387,803
2021	$244,982,570
2022	$148,800,891
2023	$69,523,395
2024-2040	$520,454,310
Total	**$1,304,819,085**

Source: OVEC, Financial Report FERC Form No. 1, Notes to Consolidating Financial Statements

Other provisions affecting PUCO

In addition to the previously described audit provision, H.B. 6 affects other aspects of PUCO's agency. The bill requires each EDU to file with PUCO an electric tariff applicable to county fairs and agricultural societies. The bill also provides parameters for rate design and corresponding recovery of potential revenue losses incurred by the EDU. Any marginal expenditures incurred by the agency to execute the tasks required by the bill will likely be borne by PUCO's primary revenue source, the Public Utilities Fund (Fund 5F60).

The bill reduces the scope of projects subject to Ohio Power Siting Board (OPSB) approval. The Board is funded by a line item in PUCO's operating budget. OPSB is a self-supporting entity that assesses fees on applicants to cover the cost of evaluating their proposals. The bill exempts a "small wind farm" from OPSB jurisdiction. Previously, the definition of small wind farm specified that it operate at an aggregate capacity less than 5 megawatt (MW), but that distinction was eliminated by the bill. Prospectively, the bill limits OPSB authority to an economically significant wind farm with an aggregate capacity of at least 20 MW. This provision may decrease both revenue to and expenditures from the Power Siting Board Fund (Fund 5610).

Qualified energy project property tax exemption

The bill modifies requirements for obtaining an existing property tax exemption for a qualified energy project by applying them to projects with a nameplate capacity of 20 MW or more. Continuing law enables a project to be exempt from both tangible personal property and real property taxation, if such an exemption is authorized by the local board of county commissioners. Generally, the owners of a qualified energy project make a service payment in lieu of taxes (PILOT). Under current law, the PILOT option could apply to projects with a nameplate capacity of at least 5 MW. The bill raises this threshold to 20 MW and applies this change to energy projects certified by the Director of Development Services on or after the bill's effective date. Continuing law permits the Director to receive applications through December 31, 2020, for an energy project using renewable energy resources. This provision may result in greater property tax revenue for some local jurisdictions.

Public utility tangible personal property valuation

H.B. 6 makes a change to the public utility tangible personal property (PUTPP) tax valuation procedures for "a qualifying nuclear resource certified under section 3706.41 of the Revised Code." The owner may not value such a property at less than its taxable value as of the effective date of the bill. Similarly, if the owner of such a facility petitions for a reassessment of their taxable value below its value as of the bill's effective date, H.B. 6 prohibits the Tax Commissioner from granting such a reduction.

The amount of taxes (and their related PUTPP values) paid by these facility owners is privileged information, but an analysis of PUTPP values reported for relevant taxing jurisdictions suggests the nuclear plants' PUTPP has already declined by 65% to 85% from tax year (TY) 2016 to TY 2018. Although further devaluation is possible, it is unlikely to decline to a value of $0, even if the nuclear power plants cease operations.

The recent taxable valuation decline for the two Ohio-based power stations is likely related to decisions by their ownership. In the fourth quarter of 2016, FirstEnergy Corporation recognized a noncash pretax impairment charge related to these plants (and others) in its 2016 consolidated statement of income. The valuation decline was motivated, in part, by

FirstEnergy's assessment of future cash flows for the two plants. The company released a statement on March 28, 2018 indicating that both plants could close before the end of their respective operating licenses. Shortly after their asset impairment, the taxable value of these properties declined for TY 2017 and TY 2018. The Davis-Besse power station's value declined in a single year from TY 2016 to TY 2017 whereas the Perry plant devaluation occurred over a two-year period, from TY 2016 to TY 2018.

Background information – current operations of OAQDA

As noted previously, OAQDA will most likely incur new staffing costs related to oversight of the Energy Generation Fund and renewing the required annual management and financial audits of any owner or operator of a qualifying nuclear resource that receives payments from the Energy Generation Fund. The bill does not, however, provide additional funding for these purposes. Spending for OAQDA's operating expenses was just over $500,000 in FY 2019. H.B. 166, the pending main operating budget bill for the FY 2020-FY 2021 biennium, provides OAQDA with funding for operations totaling approximately $775,000 in FY 2020 and $790,000 in FY 2021. Some of the increased appropriations allow the Authority to hire one new permanent full-time employee to handle customer service and administrative duties. OAQDA's operating costs are supported by bond financing fees and a portion of air permit fees collected by the Ohio EPA.

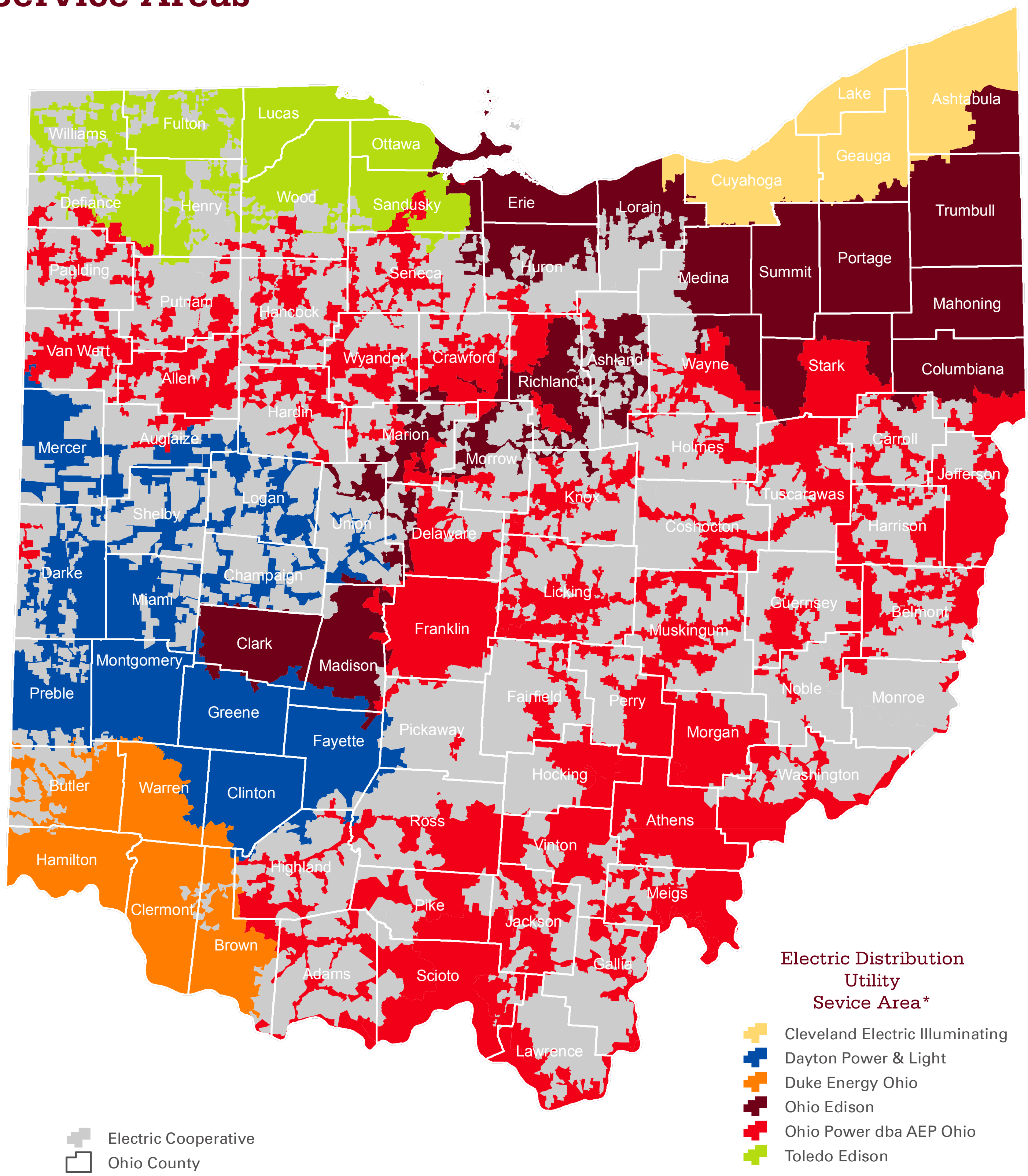
OAQDA's current role is to assist businesses, political subdivisions, and not-for-profit entities in complying with the federal Clean Air Act. Its primary function is to help with clean air project financing, issuing revenue bonds to install clean air facilities, and helping them qualify for tax exemptions on the projects. OAQDA also awards grants to small businesses to buy clean air equipment. A seven-member board governs the Authority, of whom five are paid and two serve ex officio.

Attachment: Electric Distribution Utilities – Service Areas

HB0006S1/lb

Electric Distribution Utilities
Service Areas

Ohio



Source: Public Utitlities Commission of Ohio, shapefile https://www.puco.ohio.gov/utility-maps/electric-maps/shapefile-of-electric-service-areas/ downloaded 4/16/2019.

*Data maintained by the PUCO. Electric service areas, or certified territories, are geographic regions within which an electric distribution utility (EDU) has the obligation and exclusive right to provide electric service. EDUs do not include municipalities that maintain their own electric systems.

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